

R590. Insurance, Administration.

R590-225. Submission of Property and Casualty Rate and Form Filings.

R590-225-11. Classification of Documents.

(1) The Department will not classify as protected, certain information in property and casualty rate filings unless these procedures are complied with.

(2) Utah Code Ann. Section 31A-19a-204 requires rates, and supplementary rate information to be open for public inspection. Supporting information in a rate filing is not designated under Utah Code Ann. Section 31A-19a-204 as public information, however, under the Government Records Access and Management Act (GRAMA) supporting information in a rate filing would be considered open for public inspection unless it is classified as private, controlled, or protected. Under GRAMA the Department may classify certain information in a record as private, controlled, or protected. It is clear that the only category applicable to rate, rule and form filings other than as a public record is as a protected record. If a record is classified as protected, the Department may not disclose the information in the record to third persons specifically and to the public generally.

(3) The only information the Department may classify as protected, absent clear documentation otherwise, in accordance with Utah Code Ann. Section 63G-2-305 is the following items:

(a) Information deemed to be trade secret. Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) "Commercial Information and non-individual financial information obtained from a person which:"

(i) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future ; and

(ii) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access.

(4) The person submitting the information under either section R590-225-11(3)(a) and or (b) above and claiming that such is or should be protected has provided the governmental entity with the information in Utah Code Ann. Section 63G-2-309(1)(a)(i).

(5) The department will handle supporting information a filer submits as part of a rate filing in the following manner:

(a) The filer will need to request which specific document the filer believes qualifies under GRAMA section 63G-2-305(1) or (2) or both when the filing is submitted; and

(b) the document must include a written statement of reasons supporting the request that the information should be classified as protected.

(c) If the filer does not request the information in the document

to be classified as protected, the document will be classified as public.

(d) The Department will not automatically classify any document in a filing as protected.

(e) The Department will not re-open a filing to permit a company to request protected classification of previously filed documents.

(6) Once the filing has been received, the Department will review the documents the filer has requested to be classified as protected to see if it meets the requirements of Utah Code Ann. Section 63G-2-305(1) or (2).

(a) If all the information in the document meets the requirements for being classified as protected and the required statement is included, the document will be classified as protected, and the information will not be available to the public or third parties.

(b) If all the information in the document does not meet the requirements for being classified as protected, the Department will notify the filer of the denial, the reasons therefore, and of the filer's right under GRAMA to appeal the denial. The filer will have 30 days to appeal the denial as allowed by Utah Code Ann. 63G-2-401. Despite the denial of classifying the information as protected, the Department, pursuant to GRAMA, will nonetheless treat the information as if it had been classified as protected until:

(i) the filer has notified the Department that the filer withdraws the request for designation as protected; or

(ii) the 30 day time limit for an appeal to the Commissioner has expired; or

(iii) the filer has exhausted all appeals under GRAMA and the documentation has been found to be a public document.

(c) If the filer combines in the same document, information it wishes to be classified as protected with information that is public, the document will be classified as public.

(7) Filings submitted that show a pattern of requesting non-qualifying items as a protected document may be considered a violation of this rule. This would include putting both protected and public information in one document.

R590-225-[11]12. Correspondence, and Status Checks.

(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:

- (a) type of insurance;
- (b) date of filing; and
- (c) Submission method, SERFF, or email; and
- (d) tracking number

(2) Status Checks.

(a) A complete filing is usually processed within 45 days of receipt.

(b) A filer can request the status of its filing 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.

R590-225-[12]13. Responses.

(1) Response to a Filing Objection Letter. When responding to

a Filing Objection letter a filer must:

(a) provide an explanation identifying all changes made;
(b) include an underline and strikeout version for each revised document;

(c) a final version of revised documents that incorporates all changes; and

(d) for filings submitted in SERFF, attach the documents in Subsections R590-225-12(1)(b) and (c) to the appropriate Form Schedule or Rate/Rule Schedule tabs.

(3) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

(d) A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

R590-225-[13]14. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-225-[14]15. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.

R590-225-[15]16. Severability.

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: property casualty insurance filing

Date of Enactment or Last Substantive Amendment: ~~[May 26, 2010]~~ 2011

Notice of Continuation: March 12, 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-19a-203